

# **BLM Land Use Planning Conference**

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# MULTIPLE USE



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The term “multiple use” means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.



## MULTIPLE USE & NEPA ...

## MULTIPLE USE: RECREATION (OFF ROAD VEHICLES)

“The ORV analysis is also flawed... ...[T]he BLM did not consider any alternative that would have closed more than 0.77% of the planning area to ORVs... It is precisely this sort of uncritical privileging of one form of use over another that we have held violates NEPA. Closures, not just limited designations, must be considered to comply with NEPA.”

*Oregon Natural Desert Association v. Bureau of Land Management*, 531 F.3d 1114, 1145 (9<sup>th</sup> Cir. July 14, 2008).

BLM violated FLPMA by issuing annual and multi-year grazing authorizations when “it failed to engage in any reasoned or informed decisionmaking process concerning grazing in the canyons in the allotment. That process must show that BLM has balanced competing resource values to ensure that the public lands in the canyons are managed in the manner that will best meet the present and future needs of the American people.” The land use plan at issue did “not contain the detailed information necessary for determining whether or not to graze the canyons...”

*National Wildlife Federation*, 140 IBLA 85, 100-101 (1997)  
 (“Comb Wash” decision).



# INVENTORY

Regarding inventory, FLPMA, 43 U.S.C. 1711(a), states in relevant part that:

[t]he Secretary shall prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern. This inventory shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values.



# INVENTORY AND WILDERNESS CHARACTERISTICS

“Read carefully and in context, the FLPMA makes clear that wilderness characteristics are among the values which the BLM can address in its land use plans, and hence, needs to address in the NEPA analysis for a land use plan governing areas which may have wilderness values.”

*Oregon Natural Desert Association v. Bureau of Land Management*,  
531 F.3d 1114, 1133 (9<sup>th</sup> Cir. 2008).



# Challenges to Use of Existing EIS to Cover Subsequent Action

- Court challenges have concerned whether:
- 1. the existing document lacks **site-specific** analysis of the proposed action
- 2. a **significant change in actions, circumstances, or information** has occurred
- 3. the proposed action is to carry out a **new legal mandate**

# Adaptive Management

- In *Oregon Natural Resources Council Action v. United States Forest Service*, 59 F. Supp.2d 1085, 1098 (D. Or. 1999), the court held that the adaptive management approach was adequate to deal with new information and obviated the need for a supplemental environmental impact statement.
- In *Hanson v. U.S. Forest Service*, 138 F.Supp.2d 1295 (W.D. Wash. 2001), the court held that even if the information cited by the Plaintiffs were new and significant, Plaintiffs had not shown that such information could not be addressed by the process of adaptive management. The court determined that the agency reasonably relied upon its own expertise in its determination to not prepare an SEIS.